

Appl. No.: 10/815,405

Amdt. Dated: June 9, 2008

Response to Office Action Mailed: February 8, 2008

## **AMENDMENTS TO THE DRAWINGS**

The attached sheet of drawing includes changes to Figure 2. The Figure has been amended in response to the Examiner's objection. No new matter has been added.

Attachments: One Replacement Sheet for Fig. 2.

One Annotated Sheet showing changes.

## REMARKS

Claims 1 to 58 are currently pending in the application. Claims 1-2, 4-7, 24-28, 34-36, 38-40, 48-49, 54-55, and 57-58 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Rao (US20040264395). Claims 3, 8, 9-12, 30, 32, 37, 41-47, 51-53 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Rao in View of Nomura et al., hereinafter Nomura, (US 6930984). Claims 13-23, 29, and 33 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Rao and Nomura as applied to claims 3, 8-12 above, and further in view of Ylonen et al., hereinafter Ylonen, (US 2002/0191548). Claim 31 stands rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Rao et al in view of Traversat et al. (US2007/0097885). Lastly, claims 50 and 56 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rao et al in view of Ylonen et al., hereinafter Ylonen, (US2002/0191548).

### Objection to the Drawings

While Applicants respectfully disagree with the propriety of the Examiner's objections to Figure 2, Applicants, in the interest of facilitating advancement of this application to allowance, have nevertheless amended Figure 2 to address the objections.

### Prior Art Rejections

"A claim is anticipated only if each and every element as set forth in the claim is

found, either expressly or inherently described, in a single prior art reference." See MPEP § 2131 (quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

To support the rejections under 35 U.S.C. § 103(a) set forth above, the Examiner appears to allege that Rao, as modified by the teachings of Nomura, render certain claims obvious. MPEP § 2143, Part G clearly defines the Examiner's initial burden:

To reject a claim based on this rationale, [the Examiner] must articulate the following:

- (1) a finding that there was some teaching, suggestion, or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
- (2) a finding that there was reasonable expectation of success; and
- (3) whatever additional findings based on the *Graham* factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness.

"[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." MPEP 2143.01, citing *KSR International Co. v. Teleflex Inc.*, 550 U.S. \_\_\_, \_\_\_, 82 USPQ2d 1385, 1396 (2007), quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)

Neither Rao alone, nor the proposed Rao-Nomura combination, discloses or suggests the claimed subject matter directed to an unconfigured network device that is disposed in a communications path and monitors for configuration messages, and forwards other packets along the communications path. For example, claim 1 has been amended to state that "the network device is disposed on a communications path between a first network and a second network, and wherein configuration message is transmitted from a remote device on the first network and addressed to a destination host on the second network," and includes "forwarding, in the unconfigured network

address mode, all packets received at the network device, other than configuration messages, along the communications path;" and "upon detection of the configuration message, configuring the network device with the IP address for the network device in the configuration message." Similarly, in claim 9, the "configuration message" is transmitted "to a destination host in the first network, wherein the network device is disposed on the communications path between the second network and the destination host." Claims 24, 34 and 36 include similar limitations. Claim 36, for example, includes a module that is operative to: "pass, if the configuration message is not valid, the configuration message to the second network interface for forwarding along a communications path; and pass packets other than configuration messages received at the first network interface to the second network interface for forwarding along the communications path."

Neither Rao nor the proposed Rao-Nomura combination disclose transmitting configuration messages to a "destination host" disposed on a network that is intended to be intercepted by a network device on the communications path to that destination host. Furthermore, no teaching in Rao (as the Examiner admits) and no teaching in Nomura discloses or suggests a system where an unconfigured network device, while in an unconfigured network address state, monitors for a configuration message and forwards all other messages along a communications path between a first and second network. Rather, Rao merely describes a system that automatically configures a wireless client for network access. In Rao, a configuration process broadcasts messages, which are detected by a wireless client scanning the RF coverage area for WLANs. Upon detection, the wireless client configures itself to access a wireless access point on the WLAN in which the message was detected.

Nomura discloses a system that configures network nodes to prioritize access to network resources in response to detected events, such as a user logging in to a particular host. Figure 2 and Col. 13, lines 1-13 of Nomura merely discloses the components of a typical network environment including routers and switches. Col. 16,

lines 15-20 of Nomura merely discloses that once routers are configured, a desired priority level can be provided to a given user. As opposed to the claimed subject matter, *Normura* involves a user of a communications terminal who logs in to a remote server system *over a pre-configured network*. *Normura* describes 5 embodiments, in which each “detects and identifies the fact that a user has logged in from a communications terminal C or that a user has launched a predetermined application on the communications terminal C.” In response, the system *re-configures* one or more network devices on the communication link to provide priority based on a user log-in (First Embodiment, col. 7 line 45 – col. 8 line 59), to provide priority control based on the user identity in launching an application (Second Embodiment, col. 8, line 61 – col. 9, line 40), to provide priority control based on launching of an application (Third Embodiment, col. 9, line 42 – col. 10, line 42), to provide bandwidth control of application traffic (Fourth Embodiment, col. 10, line 46 – col. 11, line 51), or to adjust user bandwidth based on a user log-in (Fifth Embodiment, col. 11, line 53 – col. 12, line 57).

In each of these embodiments, *Normura* assumes that routers, switches, and other intermediate network devices are already pre-configured with an IP address and that the network topology is pre-defined. *Normura* asserts that “As a result [of the first aspect of the invention] control of priority can be performed dynamically, without using a specific protocol such as RSVP, even if there is a change in a terminal used by a user or a change in network configuration, such as a change due to addition of a network device.” (col. 4, lines 13-18). Every re-configuration of the network is in response to an event detector which detects a user log-in or the launch of a user application. (Col 7, lines 62-67). Each network device in the network is assumed to have entries in a Directory Server 16 (col. 13, line 45 – col. 14, line 23) corresponding to a valid initial network device configuration. For example, the IP address of every router and switch on the communication link between the user terminal and the remote server is pre-configured, and the network topology is known. For example, col. 14 lines 54 –

col. 15 line 25 describe the available pre-configuration data: "Next, using IP routing information from the IP address of the client 11 and the IP address of the server 12, the configuration server 18 specifies the routers, 141, 142 and the switches 151, 152, 153, that relayed the sent and received traffic that occurs between the client 11 and the server 12" (*Normura*, col. 14, lines 54-61). Routers are assumed to transmit Link State Advertisements "indicating the router connection relationship." (col. 14, line 66 - Col. 15, line 1). Further, "the configuration server 18 acquires information relating to each router (the state of the routers and configuration items) from the obtained IP addresses of the relaying routers." (Col. 15, lines 26 - 29).

Clearly, the routers and switches in *Normura's* system are pre-configured with at least an IP address, whereas Applicant's invention is a method and apparatus for initial configuring of an unconfigured network to assign configuration parameters such as an IP address and a subnet mask. These pre-configuration parameters are required pre-existing elements of *Normura's* system, as they are required to reach and configure the routers and switches to provide desired QoS to identified end users.

Furthermore, the Examiner appears to allege that Rao anticipates claim 48. Claim 48, however, includes "providing, during the connection, a hardware profile of a network device;" and "receiving configuration information from the remote device based on the hardware profile." Rao fails to disclose the subject matter corresponding to these limitations and therefore fails to anticipate claim 48. The portions of Rao cited by the Examiner are unavailing. Paragraph 0039 of Rao merely discloses a hardware architecture for a client, and that a client includes a monitor table. Paragraphs 0042 and 0043 merely disclose how a "configured computing device 1" and a "wireless network client 2" interact to allow the wireless client to access a wireless network. Nothing in the cited passages, however, disclose a hardware profile or configuration information that is based on the hardware profile.

In light of the foregoing, Applicants believe that all currently pending claims are presently in condition for allowance. Applicants respectfully request a timely Notice of Allowance be issued in this case.

If a telephone conference would advance prosecution of this Application, the Examiner may call Mark J. Spolyar, Attorney for Applicant, at 650-739-7511.

Applicants request to charge the Deposit Account No. 02-0384 of Baker Botts LLP for a one month extension of time under 37 C.F.R. 1.136(a) for \$60.00. The Commissioner is hereby authorized to charge any fee and credit any overpayment to Deposit Account No. 02-0384 of Baker Botts LLP.

Respectfully submitted,

BAKER BOTTS L.L.P.  
Attorneys for Applicant

A handwritten signature in black ink, appearing to read "Mark Spolyar", written in a cursive style.

Mark J. Spolyar

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